

FORM PTO 1390
(REV. 5-93)

US DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE

ATTORNEY DOCKET NUMBER
2000_0964ATRANSMITTAL LETTER TO THE UNITED STATES
DESIGNATED/ELECTED OFFICE (DO/EO/US)
CONCERNING A FILING UNDER 35 U.S.C. §371

U.S. APPLICATION NO.

09/601484

International Application No.
PCT/EP99/00701International Filing Date
February 3, 1999Priority Date Claimed
February 5, 1998Title of Invention
METHOD AND DEVICE FOR MEASURING LUMINESCENCEApplicant(s) For DO/EO/US
Gerd MAROWSKI et al.

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. This is a FIRST submission of items concerning a filing under 35 U.S.C. §371.
2. This is a SECOND or SUBSEQUENT submission of items concerning a filing under 35 U.S.C. §371.
3. This express request to begin national examination procedures (35 U.S.C. §371(f)) at any time rather than delay examination until the expiration of the applicable time limit set in 35 U.S.C. §371(b) and PCT Articles 22 and 39(1).
4. A proper Demand for International Preliminary Examination was made by the 19th month from the earliest claimed priority date.
5. A copy of the International Application as filed (35 U.S.C. §371(c)(2))
 - a. is transmitted herewith (required only if not transmitted by the International Bureau).
 - b. has been transmitted by the International Bureau. ATTACHMENT A
 - c. is not required, as the application was filed in the United States Receiving Office (RO/US)
6. A translation of the International Application into English (35 U.S.C. §371(c)(2)). ATTACHMENT B
7. Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. §371(c)(3))
 - a. are transmitted herewith (required only if not transmitted by the International Bureau).
 - b. have been transmitted by the International Bureau.
 - c. have not been made; however, the time limit for making such amendments has NOT expired.
 - d. have not been made and will not be made.
8. An oath or declaration of the inventor(s) (35 U.S.C. §371(c)(4)). ATTACHMENT C
9. A translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. §371(c)(5)).

Items 10. to 13. below concern other document(s) or information included:

10. An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
11. An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included. ATTACHMENT D
12. A FIRST preliminary amendment.
- A SECOND or SUBSEQUENT preliminary amendment.
13. Other items or information:
 - Notification Concerning Submission or Transmittal of Priority Document - ATTACHMENT E
 - PCT Written Opinion (in German) - ATTACHMENT F
 - Response to Written Opinion (in German) - ATTACHMENT G
 - International Preliminary Examination Report (in German) - ATTACHMENT H
 - International Search Report - ATTACHMENT I

THE COMMISSIONER IS AUTHORIZED
TO CHARGE ANY DEFICIENCY IN THE
FEES FOR THIS PAPER TO DEPOSIT
ACCOUNT NO. 23-0975

U.S. APPLICATION NO. 09/601484		INTERNATIONAL APPLICATION NO. PCT/EP99/00701	ATTORNEY'S DOCKET NO. 2000_0964A																
		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 75%;">CALCULATIONS</td> <td style="width: 25%;">PTO USE ONLY</td> </tr> </table>		CALCULATIONS	PTO USE ONLY														
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<p><input checked="" type="checkbox"/> The following fees are submitted</p> <p>BASIC NATIONAL FEE (37 CFR 1.492(a)(1)-(5)):</p> <table> <tr> <td><input checked="" type="checkbox"/> Search Report has been prepared by the EPO or JPO.....</td> <td style="text-align: right;">\$840.00</td> </tr> <tr> <td><input type="checkbox"/> Neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO.....</td> <td style="text-align: right;">\$970.00</td> </tr> </table> <p>ENTER APPROPRIATE BASIC FEE AMOUNT =</p> <p style="text-align: center;">\$840.00</p>				<input checked="" type="checkbox"/> Search Report has been prepared by the EPO or JPO.....	\$840.00	<input type="checkbox"/> Neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO.....	\$970.00												
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<p>Surcharge of \$130.00 for furnishing the oath or declaration later than <input type="checkbox"/> 20 <input checked="" type="checkbox"/> 30 months from the earliest claimed priority date (37 CFR 1.492(e)).</p> <table> <tr> <td>Claims</td> <td>Number Filed</td> <td>Number Extra</td> <td>Rate</td> </tr> <tr> <td>Total Claims</td> <td>10 - 20 =</td> <td>-0-</td> <td>X \$18.00</td> </tr> <tr> <td>Independent Claims</td> <td>3 - 3 =</td> <td>-0-</td> <td>X \$78.00</td> </tr> <tr> <td colspan="3"></td> <td>+ \$260.00</td> </tr> </table> <p>TOTAL OF ABOVE CALCULATIONS =</p> <p style="text-align: center;">\$840.00</p>				Claims	Number Filed	Number Extra	Rate	Total Claims	10 - 20 =	-0-	X \$18.00	Independent Claims	3 - 3 =	-0-	X \$78.00				+ \$260.00
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Total Claims	10 - 20 =	-0-	X \$18.00																
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<p>Reduction by 1/2 for filing by small entity, if applicable. Verified Small Entity Statement must also be filed. (Note 37 CFR 1.9, 1.27, 1.28)</p> <table> <tr> <td>SUBTOTAL =</td> <td style="text-align: right;">\$840.00</td> </tr> </table>				SUBTOTAL =	\$840.00														
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<p>Processing fee of \$130.00 for furnishing the English translation later than <input type="checkbox"/> 20 <input checked="" type="checkbox"/> 30 months from the earliest claimed priority date (37 CFR 1.492(f)).</p> <table> <tr> <td>TOTAL NATIONAL FEE =</td> <td style="text-align: right;">\$840.00</td> </tr> </table>				TOTAL NATIONAL FEE =	\$840.00														
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<p>Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40 per property +</p> <table> <tr> <td>TOTAL FEES ENCLOSED =</td> <td style="text-align: right;">\$880.00</td> </tr> </table>				TOTAL FEES ENCLOSED =	\$880.00														
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		Amount to be refunded	\$																
		Amount to be charged	\$																
<p>a. <input checked="" type="checkbox"/> A check in the amount of <u>\$880.00</u> to cover the above fees is enclosed. A duplicate copy of this form is enclosed.</p> <p>b. <input type="checkbox"/> Please charge my Deposit Account No. 23-0975 in the amount of \$ _____ to cover the above fees. A duplicate copy of this sheet is enclosed.</p> <p>c. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. <u>23-0975</u>.</p>																			
<p>NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.</p>																			
<p>SEND ALL CORRESPONDENCE TO:</p> <p>WENDEROTH, LIND & PONACK, L.L.P. 2033 K Street, N.W., Ste. 800 Washington, D.C. 20006</p>		<p><i>Charles R. Watts</i> SIGNATURE</p> <p><u>Charles R. Watts</u> NAME</p> <p><u>33,142</u> REGISTRATION NUMBER</p>																	
<p>August 3, 2000</p>		<p>[CHECK NO. <u>39224</u>] [2000_0964A]</p>																	

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UNITED STATES PATENT AND TRADEMARK OFFICE

I, Gordon SPENCE BA, BSc, MIL, BDÜ,
translator to RWS Group plc, of Europa House, Marsham Way, Gerrards Cross,
Buckinghamshire, England declare;

1. That I am a citizen of the United Kingdom of Great Britain and Northern Ireland.
2. That I am well acquainted with the German and English languages.
3. That the attached is, to the best of my knowledge and belief, a true translation into the English language of the accompanying copy of the specification filed with the application for a patent in Switzerland on 5 February 1998 under the number 1998 0278/98 and the official certificate attached hereto.
4. That I believe that all statements made herein of my own knowledge are true and that all statements made on information and belief are true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the patent application in the United States of America or any patent issuing thereon.

Gordon Spence

For and on behalf of RWS Group plc
The 19th day of July 2000

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[Shield]

SWISS CONFEDERATION

Certificate

The attached documents agree with the original technical documents of the Patent Application for Switzerland and Liechtenstein characterised on the next page. Switzerland and the Duchy of Liechtenstein constitute a single territory of protection. Hence, protection can only be requested for both countries conjointly.

Bern, 26. Nov. 1998

Federal Office for Intellectual Property

Patent applications

[signature]

[Gummed Seal of
Federal Office for
Intellectual Property.]

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Patent Application No. 1998 0278/98

CERTIFICATE OF DEPOSITION (Art. 46 para. 5 PatV)

The Confederate Institute for Intellectual Property certifies the entry of the Swiss patent application identified below.

Title:

Measuring method and measuring device.

Applicant:

Novartis AG

Schwarzwaldallee 215

4058 Basel

Date of filing: 05.02.1998

Prospective classes: G01N

Dr. Hans-Jochen
Dannappel
Leiter Patente

AKTENEXEMPLAR

Europäisches Patentamt
D-80298 München
Deutschland

Response

20. März 2000

**Case NZ/8-30383/A/SOL; Internationale Patentanmeldung
PCT/EP99/00701**

Sehr geehrte Damen und Herren

Wir bestätigen dankend den Erhalt des ersten schriftlichen Bescheides vom 11.01.2000, zu dem wir nachfolgend Stellung nehmen.

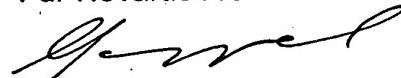
Ad Abschnitt VII (2)

Die Anmelderin wird die EP-A-0 793 090 in Verfahren vor den nationalen beziehungsweise regionalen Patentämtern nach Eintritt in die nationale Phase berücksichtigen, wenn die Aufnahme dieses Standes der Technik gefordert werden sollte.

Ad Abschnitt VIII.

Der unabhängige Anspruch 10 beschreibt eine Sensorplattform mit allen technischen Merkmalen, die notwendig sind, um das Verfahren gemäss Anspruch 1 durchzuführen, oder in der Vorrichtung von Anspruch 8 verwendet zu werden. Es handelt sich um einen reinen Sachanspruch, in dem Verfahrensmerkmale wie die nicht-evaneszente und direkte Anregung im Volumen der Analytprobe keinen Raum haben. Die Aufnahme von Verfahrensmerkmalen würden auch zu einer mangelnden Deutlichkeit führen. Da ein technologischer Zusammenhang gegeben ist, können auch keine Bedenken bezüglich der Einheitlichkeit bestehen. Die Anmelderin vertritt daher die Auffassung, dass Anspruch 10 keiner Änderung bedarf.

Mit freundlichen Grüßen
Für Novartis AG



Dr. Hans-Jochen Dannappel
(AV 36671)